

SUSAN KRAMMES SAMMIS

IBLA 78-512

Decided October 19, 1978

Appeal from a decision of the California State Office, Bureau of Land Management, dismissing a protest against the termination of oil and gas lease S-5454 by operation of law for failure to pay the annual rental on or before the due date.

Affirmed.

1. Oil and Gas Leases: Reinstatement

Under 30 U.S.C. § 188(c) (1976), the Secretary of the Interior has no authority to reinstate an oil and gas lease terminated by operation of law for failure to make timely payment of rental, unless rental payment is tendered at the proper office within 20 days after the due date.

APPEARANCES: Susan Krammes Sammis, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Susan Krammes Sammis, as executor of the estate of Kenneth F. Krammes, has appealed from a decision of the California State Office, Bureau of Land Management (BLM), dated June 12, 1978, which dismissed her protest against the termination of noncompetitive oil and gas lease S-5454.

The basis for the dismissal of the protest was that neither the lessee nor his successors in interest had paid the annual rental on or before the anniversary date of lease S-5454. Since the lease records showed there was no well on the lease capable of producing oil or gas in paying quantities the lease automatically terminated by operation of law.

Rental for lease S-5454 was due April 3, 1978. ^{1/} When the annual rental was not received by the BLM on or before the due date, the lease automatically terminated on that date by operation of law pursuant to its own terms and the provisions of 30 U.S.C. 188(b) (1976); 43 CFR 3108.2-1(a).

Appellant explains the unfortunate reasons for the failure to make timely payment of the rental and asks to have the lease reinstated stating:

Lease S 5454 was issued to Mr. Krammes several years ago and the yearly lease charge was paid. Mr. Krammes died in March and the estate went into probate. However, Mr. Krammes, for the last two years, was under the Conservatorship [sic] of the Kern County and they had all his papers and information concerning the lease agreement. At the time of Mr. Krammes' death, I asked them if there were any bills coming due that needed to be paid and they informed me that there were no current bills and all the leases were being paid. I was listed in the Will as the Executor to the estate and hired an attorney who filed the papers necessary to become Executor and follow through on probating the estate. During this time, the lease charge came up for Lease S 5454.

By the time I had been appointed the Executor to the Estate and the papers to the estate had been turned over to Mr. Jameson, it had passed the date for paying the lease. It was at this time that we found out that the lease payment had been due.

[1] Appellant clearly has been severely hampered by her inability to accelerate the legal process of straightening out the financial affairs of Kenneth F. Krammes, the lessee for S-5454. However, no matter what efforts were made or difficulties encountered in probate of the Krammes estate, appellant cannot alter the fact that the rental remained unpaid as of the date of the BLM decision, over 60 days after the original due date.

The Board has consistently held pursuant to 30 U.S.C. § 188(c) (1970), that the Secretary has no authority to reinstate a terminated lease unless payment has been tendered within 20 days of the due date, as the statute only empowers him to reinstate leases so paid, and none

^{1/} The anniversary date of the lease was April 1, 1978, a Saturday. Therefore the time for remitting the rental was automatically extended to the following Monday, April 3.

other. Vern H. Bolinder, 30 IBLA 26 (1977); C. J. Iverson, 21 IBLA 312, 82 LD. 386 (1975); Merilyn K. Buxton, 24 IBLA 269 (1976); Edward Malz, 24 IBLA 251 (1976). For whatever reason, no such tender was ever made in this case.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur.

Frederick Fishman
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

